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C O N F I D E N T I A L SECTION 01 OF 02 TEGUCIGALPA 000787

SIPDIS

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TAGS: [PGOV](#) [KDEM](#) [MOPS](#) [HO](#)

SUBJECT: ELECTORAL TRIBUNAL DISQUALIFIES VICE PRESIDENT
SANTOS AS A PRESIDENTIAL CANDIDATE

REF: A. A. TEGUCIGALPA 765

[1](#)B. B. 07 TEGUCIGALPA 1915

Classified By: Charge d'Affaires, a.i., Simon Henshaw, reasons 1.4 (b & d)

[1](#)1. (C) Summary: The Supreme Electoral Tribunal (TSE) disqualified Vice President Elvin Santos as a presidential candidate based on constitutional rules on candidates' qualifications. This action was taken despite the fact that the TSE 48 hours earlier had found Santos and his slates technically sound and able to run for office. Santos must now take his case to the Supreme Court, which many believe is already aligned against him. Santos can only salvage his candidacy by convincing the powerbrokers that he is not a maverick and a threat to them. End summary.

TSE Rules Santos' Candidacy Technically Sound

[1](#)2. (SBU) The Supreme Electoral Tribunal (TSE) determined on August 22 that the candidacy and election slates of Vice President Elvin Santos (Liberal Party) had been reviewed and found to be technically sound, thus allowing him and the politicians on his slate to run for office, according to the press. The technical review determined among other technical requirements that all of Santos' candidates were born in Honduras, and that the requisite 30 percent female candidates were present. The review did not, however, contemplate the case filed at the TSE on August 12 by Fabio Mendoza Melendez, a renowned writer and professor, alleging that Santos had served as president during President Manuel Zelaya's absences from Honduras, and thus could not run for president.

. . . But not Legal

[1](#)3. (C) Santos visited PolCouns August 23 to express his concerns that the TSE would rule against him on Mendoza's case and not allow him to run for president. Santos said he had come to an agreement with the National Party, who would vote in his favor, that the Liberal Party would vote against him, and that the Christian Democratic Party was inclined to vote against him. (Note: The TSE has five magistrates, one from each party, but only the National, Liberal and Christian Democratic magistrates are voting members. The National Unity and Innovation Party and Democratic Unification Party magistrates are considered consultative members. While Santos is a Liberal, his party representative vote against his candidacy because the magistrate is an ally of one of the other Liberal candidates -- President of the Congress Roberto

Micheletti. End Note.) Santos said the Christian Democrats, led by Arturo Corrales, were using the excuse that the U.S. Embassy had completed a juridical analysis of the situation and had determined that by law Santos should not be able to run. PolCouns informed Santos that no such document existed and that the USG was staying out of this internal matter. Santos then asked PolCouns to call Corrales with this message. After consulting with the Charge d'Affaires, the message was delivered to Corrales. Corrales thanked PolCouns and confirmed that he did not feel under any pressure from the USG, and the Christian Democrats would make their decision based on the law.

Santos Vows to Take the Battle to the Streets

13. (SBU) The TSE issued their ruling that Santos had been disqualified On August 24 at 11:10 p.m. (50 minutes before the midnight deadline). The tribunal gave him until midnight to select another person to take his place at the head of his slate. The press reported that Santos had decided not to substitute anyone -- he had been considering placing his wife Rebecca de Santos at the head of the slate, but decided to continue the battle for his own candidacy. Santos went to the TSE with his supporters during the night where they protested, burning tires, throwing rocks at the building, and cutting electrical lines. Close Santos advisor Marlon Lara vowed to "take the battle to the streets" and by 10:30 a.m., Santos followers had taken over the Copan archeological site and several highways. Santos did, however, return to the TSE in the morning to calm his supporters and stop the petty violence.

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CD Explains its Vote

14. (C) Arturo Corrales called PolCouns later to explain his party's vote in the TSE. He told PolCouns that his party had met for over three hours to consider the question and had decided that although politically Santos was a preferable candidate to Micheletti, one of the other Liberal Party candidates, the decision should be based on the law and not on politics. Corrales said his party did not disqualify Santos because he had held the presidency, but because: 1) he was directly elected as Vice President; 2) many political experts say that anyone who runs for office must resign their current position; 3) the constitution clearly states that if you resign your elected office, you are unable to run for office for ten years. (Note: In other words, the Christian Democrats' argument is that he must resign and if he resigns he cannot run for ten years. End note.)

The Final Option: the Supreme Court

15. (C) Despite his disqualification, Santos still has one final option: to take his case to the Supreme Court. Emboffs have urged Santos for months to go directly to the court to have this situation decided once and for all, but he has refused, saying he needed time to gather momentum. Santos has told us he is worried that the court is already biased against him. He based this fear on rumors that the positive decision rendered by the court in the presidential qualification case of Micheletti (ref b), stated that the Vice President cannot run for office. (Comment: Unsubstantiated rumors abound that Chief Justice of the Supreme Court Vilma Morales made a pact with Micheletti to disqualify Santos from the beginning -- many say in exchange for her reelection. End comment.)

Comment

16. (C) Against most predictions, the TSE took a stand on the Santos case, sticking to constitutional regulations that appear to disqualify him. Most observers thought the tribunal would allow him to run and leave the final decision to the Supreme Court. Corrales has told PolCouns on several

occasions that Santos has reached his peak, and that he believes Micheletti to be the stronger candidate, especially since Micheletti has worked hard over the last two years to control the party bases on the lower levels. Corrales and the other power brokers behind the scenes, including former President Carlos Flores, may see the young Santos as a threat because they feel unable to control him. With Micheletti they know what they are getting: he will continue to protect the status quo, which is a democratic system, but one that benefits their small rich and powerful class. Santos has already proven to be a maverick, calling out Micheletti for his "subsidies" to buy votes (see ref a), and the power brokers may not trust him. Santos case, however, will go to the court, and the decision will depend on his ability to negotiate and convince the powerful that he is not a threat. End Comment.

HENSHAW